

**Washington State Human Rights Commission  
Minutes  
September 23-24, 2004  
Pasco, Washington**

**ATTENDANCE**

**Commissioners:** Ellis Casson, Chairperson Pro Tem; Dallas Barnes, J. Reiko Callner; Ben Cabildo.

**Staff:** Marc Brenman, Executive Director; Tanya Calahan, Executive Assistant to the Commissioners; Jerry Lee, Operations Manager; Michael Tovar, Equal Opportunity Compliance Investigator; and Christina Mendoza, Office Assistant Senior.

**Guests:** Judge Mary Kay Becker, Division I, Court of Appeals; Michele Storms and Hong Tran, NW Justice Project; Mary Welch, Columbia Legal Services; Betty James, Edna Elam; Bobbi Jenkins, Sharon Paridis; Pat Austin; Denis Austin, Elva Conejo; Mr. Cornejo; Peggy Pukmiller; Mario Ledesma; Maria Martinez; Vanessa Moore; Mary Sisk; Marie Cueves; Christina Mitma; Elizabeth Castillo; Mr. Moore; Jerri Potts; Margi Seipt; Ben Hooper; Bob Swisher; Zelma Jackson; and Gracie Valle.

**OPENING AND WELCOME**

*(Audio tape one – side one)*

Commissioner Casson called the meeting to order at 7 p.m.

The Commissioners and staff introduced themselves to the audience.

Commissioner Callner gave an overview of the evening's forum and its format.

Commissioner Barnes said a few words and welcomed everyone to Pasco.

Marc Brenman gave an overview of the jurisdiction of the Washington State Human Rights Commission.

Commissioner Callner spoke about the changing demographics and the history of the Civil Legal Needs Study.

Judge Mary Kay Becker next spoke about her history and the civil legal needs in Washington.

Judge Becker made reference to the Civil Legal Needs document. It's available on the Washington State Bar Association's web site. She then gave some anecdotal information and examples of individuals who had difficulties but could have benefited if they had access to the legal system.

She continued to discuss the findings of the study and the civil legal needs of individuals in Washington State. Discrimination was a large component of the study.

Commissioner Callner next introduced Michele Storms of NW Justice Project (NWJP). Ms. Storms spoke about the structure of the legal needs programs. There are currently only 10 legal needs offices in the state as compared to many more, several years ago. NWJP has nine locations. Custody, predatory lending, housing, and farm worker issues are some of the advocacy work that NWJP has done. Columbia Legal Services only has five offices statewide. Only one out of five people with a serious legal need are being served.

Ms. Storms expanded upon the discrimination components of the civil legal needs study.

*(Audio tape one – side two)*

Mary Welch of Columbia Legal Services (CLS) spoke about her experiences in legal services. Her office serves eight counties with three attorneys. She receives calls weekly from domestic violence victims and has to turn many away. Her office refers people to the CLEAR toll-free line for assistance as their criteria for taking cases must be in line with grant funding.

Ms. Welch gave examples of the difficulties CLS has experienced having to say no to individuals. They lack the funding to help everyone.

Hong Tran then spoke. She is currently a staff attorney for NWJP. She spoke about language access issues. The laws state that a government agency cannot discriminate based on national origin but appropriate interpretation and translation services are not always provided. Many individuals with legal problems encounter those problems because they were unaware of their rights. Government services are usually explained in English; therefore, many individuals don't understand the information that's provided to them.

Several audience members spoke. Some of the areas of concern expressed were difficulties with the Kennewick Housing Authority; underpaid workers; a property dispute; and the special needs of developmentally disabled individuals.

Susan Thornton of Benton/Franklin Dispute Resolution Center offered the services of her organization to those in the audience. She offered to speak to whomever she needed to, to form a partnership.

Jim Bamburger commented about self help for legal services and the need for individuals to engage in limited law practice. He provided the website: [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org) as a resource for individuals.

Commissioner Callner concluded the discussion by thanking those in attendance. She commented that the night's discussion has been encouraging.

**ADJOURN**

There being no further business, the meeting adjourned at 9:03 p.m.

Respectfully submitted,

Tanya Y. Calahan  
Executive Assistant to the Commissioners

## **FRIDAY, SEPTEMBER 25**

### **ATTENDANCE**

Commissioners: Ellis Casson, Chair Pro Tem; Dallas Barnes; J. Reiko Callner; and Ben Cabildo. A quorum was present.

Staff: Marc Brenman, Executive Director; Tanya Calahan Executive Assistant to the Commissioners; Jerry Lee, Operations Manager; and S. Juanita Soto, Equal Opportunity Compliance Specialist.

### **OPENING AND WELCOME**

*(Audio tape one-side one)*

Commissioner Casson called the meeting to order at 9 a.m.

### **APPROVAL OF MINUTES**

The Commissioners considered the minutes of the August 23, 2004 meeting. Commissioner Callner made a motion to approve the minutes. Commissioner Cabildo seconded the motion. MOTION CARRIED.

### **CASE CLOSURES**

The Commissioners discussed several investigative findings. The complainant's age appears to be an error in the finding for Peterson v. Townsend Bay Marine. In the case of Woldedriam Ampco System Parking, the filing date appears to be incorrect. In the case of Shakina v. Safeplace, on page three, paragraph 21, "October 31, 2004", should probably be "October 31, 2001."

Commissioner Barnes made a motion to approve case closures with the noted corrections. Commissioner Cabildo seconded the motion. Commissioner Callner abstained from voting on Gasset v. Jenny Craig and Shakina v. Safeplace. MOTION CARRIED.

### **EXECUTIVE DIRECTOR'S REPORT**

Marc Brenman highlighted information from his written monthly Executive Director's report. He pointed out that there is a grievance filed by a significant amount of staff regarding the incentive plan.

Commissioner Barnes asked about various personnel changes. Les Smith's position will be reallocated to an Information Technology Applications Specialist 2.

Commissioner Barnes asked about the Union's involvement in making a decision about filling the Specialists position in Olympia.

Discussion ensued about the upcoming Statewide Civil Rights Conference that is scheduled for December 1-3, 2004 in Tacoma. Robert Garcia will speak at the first day's lunch since former Equal Employment Opportunity Commission Commissioner Paul Miller withdrew due to his teaching schedule.

### **UNFINISHED BUSINESS**

Commissioner Barnes handed out documents regarding other Boards and Commissions' chairperson position. Discussion ensued about rotating the chairperson position and what RCW 49.60.050 says. Commissioner Casson noted that the Commissioners should just make a decision about how to proceed and suggested that they confer with the Governor's office about changing the Governor's authority to appoint the chairperson. Commissioner Casson suggested that the Commissioners make a recommendation to the Governor to have annual elections by the Commissioners for the chairperson position. The term would be for one year with a maximum of two-one year terms. He made a motion to affect. Commissioner Cabildo seconded the motion. MOTION CARRIED.

*(Audio tape one – side two)*

Tanya Calahan commented about the rules for evaluating complaints in executive sessions.

There was a consensus among the Commissioners to adopt the most recently drafted memo concerning the Executive Director's Expectations.

### **2005 COMMISSION MEETING SCHEDULE**

The Commissioners discussed the draft meeting schedule for 2005. They spoke about visiting various places in the community.

The draft schedule was amended to reflect a meeting in Olympia on March 17-18, 2005 in Olympia, a meeting on May 19-20, 2005 in Ellensburg, and a meeting in Moses Lake on September 22-23, 2005

Commissioner Callner made a motion to approve the 2005 schedule as amended. Commissioner Barnes seconded the motion. MOTION CARRIED.

There was discussion about the special scheduled for September 30, 2004 at 3 p.m. to approve case closures. Commissioners Barnes, Cabildo, and Casson will participate.

### **POLICY ON DISSEMINATION OF CONFIDENTIAL INFORMATION**

The Commissioners next discussed a draft policy on dissemination of confidential information on claims and lawsuits against the Human Rights Commission. Commissioner Callner drafted a policy on the matter.

They considered what staff should be privy to confidential information. Commissioner Barnes commented about the exempt employees and their role. Commissioner Callner will redraft document and the Commissioners will discuss and adopt the draft policy at the next Commission meeting.

*(Audio tape two – side one)*

### **WORKLOAD STANDARDS**

The Commissioners next discussed the Workload Planning Document for Equal Opportunity Compliance Investigators.

Commissioner Barnes asked about investigator workload planning. Jerry Lee explained how investigators and managers are held accountable for production numbers. Commissioner Barnes commented that numbers are easier. He can't tell from the document whether progress is being made. The document was created by previous management and the union.

There are no workload standards for Equal Opportunity Compliance Investigator 1s, 3s, or Specialists.

### **RECONSIDERATIONS**

**Karen Kidwell v. Birdstep Technologies.** Juanita Soto provided a summary of the case. Neither complainant nor respondent were present. Commissioner Callner made a motion to deny the petition. Commissioner Cabildo seconded the motion. MOTION CARRIED.

**Jose Lopez v. Frontier Fine Foods, Inc.** Juanita Soto provided a summary of the case. Neither complainant nor respondent participated. The Commissioners and staff discussed how complainant's injury was accommodated. Commissioner Callner made a motion to deny the petition. Commissioner Barnes seconded the motion. MOTION CARRIED.

**Steven Massey v. Simpson Timber Company.** Juanita Soto provided a summary of the case. Neither complainant nor respondent participated. There was discussion about a sticker that read "attitudes are the real disability." There was insufficient evidence to

show that discrimination occurred. Commissioner Callner made motion deny the petition. Commissioner Cabildo seconded the motion. MOTION CARRIED.

**Christina Bedolla v. Yakima Avenue Market.** Christina Bedolla appeared in person. Respondent did not participate. Juanita Soto provided a summary of the case. Ms. Bedolla stated that her witnesses were not interviewed. She provided the names of witnesses. Her sister was present at the time she went to her employer regarding the harassment. Complainant says she did not engage in misconduct but was fired based on hearsay.

Juanita Moya and Rachel are witnesses according to complainant. The file reflects that that there was no direct witness evidence. No one was present during the alleged harassment. Commissioner Barnes made a motion to grant reconsideration to obtain information from available witnesses. Commissioner Cabildo seconded the motion. **Commissioner Callner asked that staff interview complainant's sister, Ms. Moya, and the witness named Rachel regarding the alleged harassment.** MOTION CARRIED.

*(Audio tape two – side two)*

**Adam Rosner v. Microsoft Corporation.** Juanita Soto provided a summary of the case. Complainant participated by telephone. Respondent did not participate. Mr. Rosner claims that his key witness was not interviewed. Commissioner Callner asked whether complainant asked for a reasonable accommodation. He did not. Complainant claimed that his witness Mr. Tuttle was not interviewed. Commissioner Cabildo asked whether Respondent investigated his allegations. Respondent interviewed 11 witnesses, complainant, and his supervisor and found no violation. Mr. Tuttle wasn't interviewed. Commissioner Callner made a motion to deny complainant's petition. Commissioner Cabildo seconded the motion. MOTION CARRIED.

**Dan Karton v. WA State Department of Corrections.** Juanita Soto provided a summary of the case. Complainant participated by telephone. Respondent did not participate. Complainant claims that the investigator did not look at any of his documents. He claimed that there are no accommodations required at Respondent's agency according to them because they are a law enforcement agency. Commissioner Callner made a motion to deny complainant's petition because the criteria for granting reconsideration was not met. Commissioner Casson seconded the motion. MOTION CARRIED.

**Godlevieve Tapp v. Valley Cities Conseling & Consulting.** Commissioner Callner made a motion grant complainant's petition for reconsideration to interview some of the 14 witnesses complainant noted. Commissioner Cabildo seconded the motion. MOTION CARRIED.

*(Audio tape three – side one)*

**Hoang Nguyen v. Machinist Inc.** Juanita Soto provided a summary of the case. Neither complainant nor respondent participated. Respondent claims that Robert Lewis, a “non-Asian” was also terminated. It appears that an African American was terminated according to complainant. Commissioner Casson made a motion to grant reconsideration. Commissioner Callner seconded the motion. Reconsideration was granted to obtain clarification from complainant about the parts manufacturing process; pursue the pretext issue, hire a language interpreter if needed, and determine the race of complainant’s comparator. MOTION CARRIED.

**Rudolph Peden v. City of Auburn Fire Department.** Juanita Soto provided a summary of the case. Neither complainant nor respondent participated. Commissioner Callner made a motion to deny complainant’s petition. Commissioner Barnes seconded the motion. MOTION CARRIED.

**Yvonne Pierce v. Great American Casino.** Juanita Soto provided a summary of the case. Neither complainant nor respondent participated. Commissioner Cabildo made a motion to deny the complainant’s petition. Commissioner Barnes seconded the motion. MOTION CARRIED.

**Suzanne Schultz v. Village of Columbia Shores Condominium Association.** Juanita Soto provided a summary of the case. Neither complainant nor respondent participated. Commissioner Barnes made motion to deny complainant’s petition. Commissioner Cabildo seconded the motion. MOTION CARRIED.

**Jeanette Skinner v. Armstrong Uniserve Inc.** Juanita Soto provided a summary of the case. Neither complainant nor respondent participated. Commissioner Casson made a motion to deny complainant’s petition for reconsideration. Commissioner Cabildo seconded the motion. MOTION CARRIED.

**Kathy Swanson v. WA State Department of Licensing.** Juanita Soto provided a summary of the case. Neither complainant nor respondent participated. She noted that there was an intensive interactive process between respondent and complainant. Commissioner Cabildo made a motion to deny complainant’s petition for reconsideration. Commissioner Barnes seconded the motion. MOTION CARRIED.

*(Audio tape three – side two)*

**William Stidd v. Island Tug & Barge.** Juanita Soto provided a summary of the case. The evidence reflects that complainant was terminated at will. Commissioner Callner made a motion to deny complainant’s petition for reconsideration. Commissioner Barnes seconded the motion. MOTION CARRIED.



**OTHER ITEMS**

Marc Brenman will handle drafting recommendations to governor regarding the chairperson tenure.

Commissioner Barnes commented about the need to discuss the heavy burden placed on complainants to prove their cases. He wants this item discussed at a Commission meeting and put on the top of the list. He suggested having a policy discussion in this area.

Commissioner Cabildo wants the issue of communication on the agenda for the October Commission meeting agenda. There needs to be a protocol regarding communication between the Commissioners and staff.

Commissioner Callner wants the discussion about Commissioner recusals on the agenda for the October 2004 meeting. Tanya will put together the relevant WACs and any Attorney General opinions regarding conflicts of interest.

There being no further business, the meeting adjourned at 3:17 p.m.

Respectfully submitted,

Tanya Calahan  
Executive Assistant to the Commissioners

**ACTION ITEMS**  
**SEPTEMBER 23-24, 2004 COMMISSION MEETING**

1. **Item:** Make corrections to the typographical errors in the noted findings.

**Status:** The corrections were made.
2. **Item:** Tanya Calahan will brief Commissioner Coker regarding the chairperson position rotation.

**Status:** This item was completed.
3. **Item:** Commissioner Callner will re-draft a policy regarding handling claims and lawsuits against the agency.

**Status:** The comments from the September 24, 2004 meeting were incorporated into the document. The document is ready for final Commission review and approval.
4. **Item:** Place the issue of communication on the October 29, 2004 Commission meeting agenda at the request of Commissioner Cabildo.

**Status:** Item is on the agenda.
5. **Item:** Provide more detail regarding disability and allegations on the reconsideration summary sheet that is provided to Commissioners.

**Status:** Document contains more detail.
6. **Item:** Discuss the issue of burden of proof for complainants at an upcoming Commission meeting at the request of Commissioner Barnes.

**Status:** Item will be placed on an upcoming Commission meeting agenda.